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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,391	05/25/2000	Akiro Sato	0694-132	6158

7590 10/28/2003

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EXAMINER

ROBERTS, PAUL A

ART UNIT PAPER NUMBER

3731

DATE MAILED: 10/28/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/578,391

Applicant(s)

SATO; A

Examiner

Paul A Roberts

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 and 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 6, 8 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Claims 1-5, 7, 9-11, 15 and 16 are pending. Claims 12-14 and 17-22 are withdrawn from further consideration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7, and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Das US 5,554,181. Das discloses an anastomosis member with a generally cylindrical body (fig 15) having at least one plate member (310) having a plurality of protuberances (310a). Each protuberance is formed from the body and extends from the body without leaving an aperture in the body. Element 326a is the connecting member. The Das device can be expanded and contracted in diameter. The Das device has a low-rigidity part (310) and a spring region (326a).
3. Regarding claim 5, the plates (310) are connected by element 326a, which connect the plate members in a zig-zag pattern. (Look at the oscillating wires comprising element 326a).
4. Regarding claim 7, the plates (310) are connected by element 326a, which connect the plate members in a lattice pattern. (Look at the oscillating wires comprising element 326a).
5. Regarding claims 9, 10, and 11 the plates (310) are connected by element 326a, which connect the plate members in parallel and there are two connecting members in element 326a.

Art Unit: 3731

Each connecting member is an elastic wire. All components of the Das stent may be made of NITI.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Das US 5,554,181 in view of Skeie et al US 5,180,392. Das discloses a stent that is capable of use in anastomosis. Though Das does not disclose that this stent can be used for anastomosis, it is well-known in the art to use a cylindrical stent such as the Das stent to form an end-to-end anastomosis. Skeie et al shows an end-to-end anastomosis using a cylindrical stent. The steps of performing said anastomosis are illustrated in figures 1-6. The steps include the method of: inserting the device into lumens of the first and second blood vessels, bringing the plate members into contact with a least one of the first and second vessels, and engaging first and second blood vessels with protuberances to prevent the dislocation of said first and second blood vessels. At the time of the invention it would have been obvious to one having ordinary skill in the art to use the Das stent to insert the device into lumens of the first and second blood vessels, bring the plate members into contact with a least one of the first and second vessels and engage first and second blood vessels with protuberances to prevent the dislocation of said first and second blood vessels because Skeie et al. demonstrates this method on an alternate, analogous structure.

Allowable Subject Matter

Art Unit: 3731

7. Claims 6, 8, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: a rhombic nor a helical shape is disclosed by Das. The allowable subject matter of claim 16 has been previously indicated.

Response to Arguments

8. Applicant's new amendment (filed 9/12/03) to the claims was sufficient to overcome the previous rejections. The applicant's arguments (filed 9/12/03) have been fully considered, but are moot in view of the new grounds of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Phan et al. US 5,129,910 discloses a surgical stent similar to applicant's device.
Applicant should especially note figure 3c.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A Roberts whose telephone number is (703) 305-7558. The examiner can normally be reached on 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J Milano can be reached on 703-308-2496. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Application/Control Number: 09/578,391

Page 5

Art Unit: 3731

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Paul Roberts
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21/10/03



MICHAEL J. MILANO
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